

IN THE CIRCUIT COURT OF ROANE COUNTY, WEST VIRGINIA:

FILED
CIRCUIT COURT
ROANE COUNTY, W. VA.
2019 JAN 28 AM 11:04
JULIA L. BOWEN
CIRCUIT CLERK

STATE OF WEST VIRGINIA,

Plaintiff,

Vs.

Case No. 18-F-57

WILLIAM HALL,

Defendant.

ORDER GRANTING, IN PART, AND DENYING, IN PART,

DEFENDANT'S MOTION FOR DISCOVERY

This Court has had under consideration the defendant's Motion for Discovery, seeking access to the employment and personnel files for West Virginia State Trooper First Class N. S. Stepp, for possible use in preparation of the defense. As Ordered following a hearing on January 7, 2019, the entire personnel file has been delivered to the undersigned Judge for *in camera* review and ruling.

After comprehensive review of the personnel file, the Court makes the following Findings of Fact and Conclusions of Law:

1. TFC N. S. Stepp enlisted in the West Virginia State Police on November 14, 2011. After training completed at the State Police academy, he has been actively employed as a trooper since that date, now more than 7 years. He has been promoted, the last being to Trooper First Class ("TFC") on November 14, 2017. His annual employee performance evaluations have consistently shown him to be meeting or exceeding all expectations for a trooper.
2. Since 2015, there have been a total of 11 investigations of reports of response to resistance or aggression, most of which have been self-reported. One of the investigations involved defendant William Hall, and that investigative report will be disclosed to counsel, as it may be relevant to the defense of this case since it involved the actions of TFC Stepp during the arrest of the defendant incident to the indictment in this case.
3. All investigations of reports of response to resistance or aggression involving Tfp. Stepp, which appear to be thorough and to have considered all available evidence, have concluded with findings that he acted appropriately, following WV State Police policy and procedure in each case. Contrary to the allegations of the defendant's motions, which counsel states

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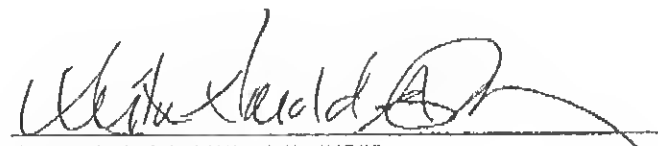
are based on "information and belief," TFC Stepp has never been sanctioned at any time by the WV State Police for use of excessive force, and certainly not on "multiple occasions." There are claims in some of the reports that the defendants have attempted to disarm TFC Stepp, and these claims are, for the most part, corroborated by statements of others who were present and/or by videotape.

4. There is nothing, in this Court's opinion after *in camera* review of the records, which would be relevant to the defense's unsubstantiated claims of other misconduct by TFC Stepp and disclosure of records in the other cases would be a violation of TFC Stepp's privacy rights.

Accordingly, it is **ORDERED** that the defendant's Motion for Disclosure of personnel records of TFC N. S. Stepp is **DENIED**, with the exception of records contained in #18UOF-018 pertaining to a Report of Response to Resistance or Aggression involving defendant William Hall, which shall be disclosed to defense counsel and which may be introduced at trial, upon proper foundation being presented for admissibility. All other records related to TFC Stepp's personnel file shall be copied, sealed, and made a part of the record, but shall not be available for inspection or copying by anyone without prior Order of this Court or any Court of competent jurisdiction. The original file, as presented to this Court, shall be returned to the West Virginia State Police legal unit.

The Clerk shall provide an attested copy of this Order to Joshua W. Downey, Prosecuting Attorney, and Andrew G. Vodden, counsel for defendant.

ENTER: January 28, 2019.


ANITA HAROLD ASHLEY
CHIEF JUDGE